

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ANTHONY A. COOPER,)	
)	
Petitioner,)	
)	
v.)	Civ.Act.No. 06-396-JJF
)	
THOMAS CARROLL, Warden)	
and CARL C. DANBERG, Attorney)	
General for the State of Delaware)	
)	
Respondents.)	

MOTION FOR EXTENSION OF TIME

Pursuant to Rule 6 of the Federal Rules of Civil Procedure, respondents move for an extension of time in which to file an answer to the petition. In support thereof, respondents state the following:

1. The petitioner, Anthony A. Cooper, has applied for federal habeas relief, alleging ineffective assistance of counsel during plea negotiations relating to felony charges in state court. D.I. 1. By the terms of the Court's order, the answer is due to be filed on October 2, 2006.

2. Counsel has been, and continues to be, diligently working on numerous cases before this Court and the state courts. However, due to the one vacancy currently in the Appeals Division, the workload for the remaining attorneys has greatly increased. Counsel is doing his best to prioritize cases by date received. Further, the Chief of the Appeals Division must review all filings prior to submission and has been unable to do so. In light of the situation, additional time is needed to complete the answer and have it reviewed in the ordinary course of business.

3. Under Habeas Rule 4, the Court has the discretion to give respondents an extension of time exceeding the 40-day limit in Civil Rule 81(a)(2). *Clutchette v. Rushen*, 770 F.2d 1469, 1473-74 & n.4 (9th Cir. 1985); *Kramer v. Jenkins*, 108 F.R.D. 429, 431-32 (N.D. Ill. 1985). The comment to Rule 4 expressly states that the district court has "the discretion to take into account various factors such as the respondent's workload" in determining the period of time that should be allowed to answer the petition.

4. This is respondents' second request for an extension of time in this case.

5. Respondents submit that an extension of time to and including October 10, 2006, in which to file an answer is reasonable. Respondents submit herewith a proposed order.

/s/ James T. Wakley
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, DE 19801
(302) 577-8500
Del. Bar. ID No. 4612

DATE: October 3, 2006

RULE 7.1.1 CERTIFICATION

I hereby certify that I have neither sought nor obtained the consent of the petitioner, who is incarcerated and appearing *pro se*, to the subject matter of this motion.

/s/ James T. Wakley
Deputy Attorney General

Counsel for Respondents

Date: October 3, 2006

CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2006, I electronically filed the attached documents with the Clerk of Court using CM/ECF. I also hereby certify that on October 4, 2006, I have mailed by United States Postal Service, the same documents to the following non-registered participant:

Anthony A. Cooper
SBI No. 00275064
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

/s/ James T. Wakley
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, DE 19801
(302) 577-8500
Del. Bar. ID No. 3759
james.wakley@state.de.us

Date: October 3, 2006

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ANTHONY A. COOPER,

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V.

Civ.Act.No. 06-396-JJF

THOMAS CARROLL, Warden
and **CARL C. DANBERG**, Attorney
General for the State of Delaware

Respondents.

ORDER

This _____ day of _____, 2006,

WHEREAS, respondents having requested an extension of time in which to file an answer, and

WHEREAS, it appearing to the Court that the requested extension is timely made
and good cause has been shown for the extension,

IT IS HEREBY ORDERED that respondents' answer shall be filed on or before October 10, 2006.

United States District Judge